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**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

September 16, 2002

AMENDED

At 9:32 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Acting Presiding Justice Blease; Associate Justice Davis; Associate Justice Callahan; and Rios, Bailiff. Calendar Called.

C036740 HEAGERTY et al. v. COUNTY OF PLACER and CALDWELL
C037794 HEAGERTY et al. v. COUNTY OF PLACER et al. and CALDWELL

Cause called. Michael Graf argued for appellants. Thomas N. Lippe appeared only. Gregg R. Lien argued for intervenor-respondent. Scott H. Finley, County Counsel, argued for defendant-respondent. Cause submitted.

At 10:08 a.m., the court recessed. At 10:13 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Raye, and Associate Justice Callahan.

C036734 THE PEOPLE v. FORSTEIN et al.

Cause called. Janice M. Lagerlof, court appointed counsel, argued for appellant Stringer. No appearance was made on behalf of appellants Forstein and Howard as argument was previously waived and approved. David A. Rhodes, Deputy Attorney General, argued for respondent. Both parties were ordered to submit concurrent letter briefs regarding error in abstract by Wednesday, September 25, 2002. Submission deferred.

At 10:43 a.m., the court recessed. At 10:48 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Sims, and Associate Justice Morrison.

**C038275 JAXON ENTERPRISES v. DEPARTMENT OF TRANSPORTATION and
TIDEWATER CONTRACTORS, INC.**

Cause called. Jennifer Dauer argued for appellant. John K. Hoxie argued for respondent. Eileen M. Diepenbrock argued for real party in interest. Cause submitted.

At 11:14 a.m., the court recessed. At 11:18 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Raye, and Associate Justice Kolkey.

**C038359 ROYCE INTERNATIONAL BROADCASTING CORPORATION, etc., et al. v.
KALIL & COMPANY, INC.**

Cause called. Michael W. McCann argued for appellants. Todd M. Noonan argued for respondent. Cause submitted.

At 11:48 a.m., the court recessed. At 2:01 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Davis, and Associate Justice Kolkey.

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**C037399 MILLER et al. v. STATE OF CALIFORNIA et al. and FREMONT
COMPENSATION INSURANCE**

Cause called. Andrew N. Chang argued for appellants. Kevin M. Corrington argued for respondents and submitted additional citations. Cause submitted.

At 2:39 p.m., the court recessed. At 2:41 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison, and Associate Justice Robie.

**C038035 OLIVEIRA, etc., et al. v. POLLOCK PINES ELEMENTARY SCHOOL
DISTRICT**

Cause called. John M. Laplante argued for appellant. Roger A. Dreyer argued for respondents. Cause submitted.

At 2:59 p.m., the court recessed. At 3:01 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Sims, and Associate Justice Robie.

**C038494 MOOSA v. STATE PERSONNEL BOARD and CALIFORNIA STATE
UNIVERSITY, CHICO**

Cause called. Brendon T. Ishikawa argued for appellant. Elise Rose made no appearance for defendant-respondent. Karen Linnea Robinson argued for real party in interest-respondent. Cause submitted.

At 3:26 p.m., the court recessed. At 3:32 p.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Davis, and Associate Justice Morrison.

**C039290 PATRICIA ADKINS INSURANCE AGENCY, INC., et al. v. STATE FARM
MUTUAL AUTOMOBILE INSURANCE COMPANY et al.**

Cause called. William P. Tedards argued for appellants. George A. Yuhas argued for respondents and submitted additional citations. Cause submitted.

At 4:07 p.m., the court recessed. At 4:10 p.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Raye, and Associate Justice Kolkey.

**C038061 MORRISON CREEK MINING OPPOSITION v. COUNTY OF SACRAMENTO
and GRANITE CONSTRUCTION CO., INC., et al.**

Cause called. Kelly Theodore Smith argued for appellant. James G. Moose argued for respondents Granite and County of Sacramento. John M. Taylor argued for respondent Teichert. Cause submitted.

At 4:41 p.m., the court recessed until 9:30 a.m., Tuesday, September 17, 2002.

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- C037233 THE PEOPLE v. MITCHELL (Not for Publication)**
The judgment is affirmed.
 NICHOLSON, J.
We concur: Scotland, P.J.
 Kolkey, J.
- C038399 THE PEOPLE v. ROGERS, JR. (Not for Publication)**
The judgment is affirmed.
 ROBIE, J.
I concur: Nicholson, J.
I concur in the opinion with the exception of part IV, where I concur in the result:
 Sims, Acting P.J.
- C039521 THE PEOPLE v. CROSS (Not for Publication)**
The order modifying defendant's probation is reversed and the case is remanded to the trial court to determine whether to require defendant to participate in a drug treatment program as an additional condition of probation.
 ROBIE, J.
We concur: Blease, Acting P.J.
 Nicholson, J.
- C040395 THE PEOPLE v. BENTLY (Not for Publication)**
The judgment is affirmed.
 CALLAHAN, J.
We concur: Scotland, P.J.
 Hull, J.
- C039872 WILSON, et al. v. FARMERS INSURANCE EXCHANGE (Not for Publication)**
The judgment is affirmed. Farmers shall recover its costs on appeal. (Cal. Rules of Court, rule 26(a) (1).)
 ROBIE, J.
We concur: Davis, Acting P.J.
 Morrison, J.
- C036956 In re N.R.; THE PEOPLE v. N.R. (Not for Publication)**
The judgment is modified by striking the imposition of the \$150 fine imposed by the Nevada court. As modified, the judgment is affirmed. The juvenile court is directed to amend its records to reflect this modification and to forward a copy of the amended order of commitment to the Director of the California Youth Authority.
 RAYE, J.
We concur: Scotland, P.J.
 Davis, J.

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At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Presiding Justice Scotland, Associate Justice Raye, Associate Justice Hull, and Guzman, Bailiff. Calendar Called.

C037044 DICK v. PACIFIC HEIGHTS TOWNHOUSES et al. and HUBER PROPERTY MANAGEMENT

Cause called. Roberta L. Franklin argued for appellant. Melissa Blair Aliotti argued for respondents. Cause submitted.

At 10:05 a.m., the court recessed. At 10:09 a.m., the court reconvened with Presiding Justice Scotland, Associate Justice Hull, and Associate Justice Robie.

C038452 THE PEOPLE v. SIMS

Cause called. Victoria H. Stafford, court appointed counsel, argued for appellant. David A. Rhodes, Deputy Attorney General, argued for respondent. Cause submitted.

C039079 THE PEOPLE v. ANGUAY

Cause called. Matthew Chan, Deputy Attorney General, argued for appellant. Bret E. Bandle argued for respondent. John L. Sage appeared only. Cause submitted.

At 10:39 a.m., the court recessed. At 10:44 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison, and Associate Justice Hull.

C038138 THE PEOPLE v. BABCOCK, SR.

Cause called. Hilda Scheib, court appointed counsel, argued for appellant. Matthew Chan, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:03 a.m., the court recessed. At 2:00 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Blease, and Associate Justice Raye.

**C037702 THE PEOPLE v. GOMEZ
C037996 THE PEOPLE v. NUNEZ**

Cause called. Barbara Michel, court appointed counsel, argued for appellant Gomez. No appearance was made on behalf of appellant Nunez as argument was previously waived and approved. Janet Neeley, Deputy Attorney General, argued for respondent. Peter H. Smith, Deputy Attorney General, made no appearance for respondent as argument was previously waived and approved. Cause submitted.

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At 2:23 p.m., the court recessed. At 2:26 p.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Raye, and Associate Justice Kolkey.

C037628 KELLOGG et al. v. GARCIA et al.

Cause called. Kenneth Foley argued for appellants and submitted additional citations. David Steven Thomas argued for respondents. Cause submitted.

At 2:59 p.m., the court recessed. At 3:04 p.m., the court reconvened with Acting Presiding Justice Nicholson, Associate Justice Morrison, and Associate Justice Hull.

C039473 QUILICI v. BURKHART

Cause called. Garrett Burkhardt, argued for himself in pro per as appellant. Diana L. Quilici, argued for herself in pro per as respondent. Cause submitted.

C039086 THE PEOPLE v. HOLBERT

Cause called. Richard M. Doctoroff, court appointed counsel, argued for appellant. Susan J. Orton, Deputy Attorney General, argued for respondent and submitted additional citations. Cause submitted.

At 4:28 p.m., the court recessed until 9:30 a.m., Wednesday, September 18, 2002.

C038592 THE PEOPLE v. TATUM

(Not for Publication)

The judgment is affirmed.
SCOTLAND, P.J.
We concur: Sims, J.
 Robie, J.

C039423 THE PEOPLE v. DUCKETT

(Not for Publication)

The judgment is affirmed.
BLEASE, Acting P.J.
We concur: Nicholson, J.
 Kolkey, J.

C039885 THE PEOPLE v. CARTER

(Not for Publication)

The judgment is affirmed. The trial court is directed to (1) amend the abstract of judgment to reflect that the 3-year term imposed for the section 288a, subdivision (b) (2), conviction is the principal term and that the 16-year term imposed for the section 288.5 conviction is the full, consecutive term, and (2) send a certified copy of the amended abstract to the Department of Corrections.
SCOTLAND, P.J.
We concur: Sims, J.
 Robie, J.

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C038354 In re DAVID K.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. SANDRA K. (Not for Publication)

The dispositional order removing the minor from appellant's home is reversed. The trial court is directed to conduct another dispositional hearing in accordance with the principles expressed herein. The judgment as to the jurisdictional order is affirmed.

DAVIS, J.

We concur: Sims, Acting P.J.

Callahan, J.

C040745 In re NICHOLAS A.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. SALINA V.

The juvenile court's order is affirmed.

KOLKEY, J.

We concur: Scotland, P.J.

Davis, J.

C036945 OLIVIERA-STANTON v. TRANSAMERICA MORTGAGE COMPANY

BY THE COURT:

Appellant's petition for rehearing is denied.

SIMS, Acting P.J.

September 18, 2002

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Associate Justice Sims, Associate Justice Morrison, and Facey, Bailiff. Presiding Justice Scotland was not present. Calendar called.

C038199 THE PEOPLE v. WHITEBEAR

Cause called. All counsel orally stipulated that Presiding Justice Scotland could participate by cassette tape. Linnea M. Johnson, court appointed counsel, argued for appellant. Raymond L. Brosterhous II, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:50 a.m., the court recessed. At 9:55 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Morrison, and Associate Justice Callahan.

**C037931 In re KARISSA S.; SHASTA COUNTY DEPARTMENT OF SOCIAL SERVICES
C038604 v. RAQUEL S.**

Cause called. Larry P. Schapiro, court appointed counsel, argued for appellant. David M. Yorton, Jr., County Counsel, argued for respondent. Cause submitted.

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C037717 THE PEOPLE v. BILLA

C036184 CITY OF LINCOLN v. BARRINGER et al.

C038913 LOPEZ v. GOURLEY, as Director of Department of Motor Vehicles

C039988 THE PEOPLE v. MURAIRA (Not for Publication)

C040250 THE PEOPLE v. ROBERTS (Not for Publication)

Morrison, J.

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- CO37022 THE PEOPLE v. TOR (Not for Publication)**
Defendant's convictions on counts 7, 8 and 9 are reversed and the counts are ordered dismissed. The matter is remanded to the trial court for resentencing. In all other respects, the judgment is affirmed.
HULL, J.
We concur: Blease, Acting P.J.
 Davis, J.
- CO39880 THE PEOPLE v. NORTHINGTON (Not for Publication)**
The judgment is affirmed.
KOLKEY, J.
We concur: Sims, Acting P.J.
 Morrison, J.
- CO40334 THE PEOPLE v. BAKER (Not for Publication)**
The judgment is affirmed.
ROBIE, J.
We concur: Blease, Acting P.J.
 Hull, J.
- CO33237 ADAMS v. GRANT JOINT UNION HIGH SCHOOL DISTRICT et al.
CO34598 (Not for Publication)**
The judgment of dismissal and the judgment awarding costs and attorney fees are reversed. The matter is remanded to the trial court for further proceedings consistent with the views expressed in this opinion. Plaintiff is awarded costs on appeal.
HULL, J.
We concur: Blease, Acting P.J.
 Davis, J.
- CO39415 In re S.W.; BUTTE COUNTY CHILD PROTECTIVE SERVICES v. C.W. et al.
and P.B. (Not for Publication)**
The order is affirmed.
HULL, J.
We concur: Scotland, P.J.
 Sims, J.
- CO40912 In re PORSHIA S. et al.; DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. STEPHEN S. (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Sims, Acting P.J.
 Callahan, J.

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C034784 ALCALA v. AUBURN AREA RECREATION AND PARK DISTRICT et al.

BY THE COURT:

The contempt proceedings against Raymond A. Mills and Pete Alcala came on regularly for hearing on this date pursuant to the order to show cause issued on April 26, 2002. The proceedings were bifurcated and hearing proceeded against Mr. Mills, who testified under oath. Upon consideration of evidence and argument, the court determined that Mr. Mills does not have the present ability to comply with the order of sanctions payable to this court and did not have such ability at the time the order was made. Accordingly, Mr. Mills is adjudged not guilty of contempt.

The order to show cause previously issued by this court is discharged as to both Raymond A. Mills and Pete Alcala, without prejudice to reissuance upon a change of financial circumstances.

Raymond A. Mills is ordered to complete a current financial declaration and file the same with this court between March 1, 2003 and March 19, 2003. A copy of the declaration is attached to this order. He is further ordered to provide Pete Alcala with copies of all documents in his possession pertaining to Pete Alcala v. Auburn Area Recreation and Park District et al., case No. C034784, on or before October 1, 2002. Willful failure to comply with this order is punishable as contempt.

RAYE, Acting P.J.

**C039566 In re KEYANA G. et al.; DEPARTMENT OF HEALTH AND HUMAN SERVICES
v. TIFFINEY T. and EVELYN H.**

BY THE COURT:

Appellant Evelyn H.'s petition for rehearing is denied.

BLEASE, Acting P.J.

**C039566 In re KEYANA G. et al.; DEPARTMENT OF HEALTH AND HUMAN SERVICES
v. TIFFINEY T. and EVELYN H.**

BY THE COURT:

Appellant Tiffiney T.'s petition for rehearing is denied.

BLEASE, Acting P.J.

September 20, 2002

At 9:31 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Acting Presiding Justice Davis, Associate Justice Nicholson, Associate Justice Hull and Guzman, Bailiff. Calendar Called.

C034625 RIEGER v. ARNOLD, etc. et al.

C035383 Cause called. James Geagan argued for appellant. Clayton W. Kent appeared only. Leslie M. Mitchell argued for respondents. Cause submitted.

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C036627 BENNETT v. WOMACK

Cause called. Robert Scott Kennard argued for appellant. Timothy W. Pemberton argued for respondent. Cause submitted.

At 11:05 a.m., the court recessed. At 11:11 a.m., the court reconvened with Acting Presiding Justice Hull, Associate Justice Kolkey, and Associate Justice Robie.

C034381 BROWN v. REGENTS OF THE UNIVERSITY OF CALIFORNIA

C035554 Cause called. Martin Blake argued for appellant. Barbara S. Perry argued for respondent. Cause submitted.

At 11:48 a.m., the court recessed. At 2:04 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison, and Associate Justice Hull.

C038515 THE PEOPLE v. HOLDSOME

Cause called. Robert K. Gezi, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:08 p.m., the court recessed. At 2:14 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Morrison, and Associate Justice Kolkey.

C038747 In re TICHINA S.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. LESLIE H.

Cause called. Leslie H. argued for herself in pro per as appellant. Laloni A. Montgomery argued for respondent. Cause submitted.

At 2:20 p.m., the court recessed. At 2:25 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Morrison, and Associate Justice Callahan.

C038844 COMMUNITIES FOR A BETTER ENVIRONMENT et al. v. CALIFORNIA RESOURCES AGENCY and CALIFORNIA BUILDING INDUSTRY ASSOCIATION.

Cause called. Edward J. Casey argued for intervenor-appellant. Ellison Folk argued for plaintiffs-respondents and submitted additional citations. Marian E. Moe, Deputy Attorney General, argued for defendant-respondent. Cause submitted.

At 3:20 p.m., the court recessed. At 3:24 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Raye, and Associate Justice Callahan.

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The judgment is affirmed.
DAVIS, J.
We concur: Blease, Acting P.J.
Hull, J.

